IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 27TH JUNE 2007 / 6TH ASHADHA 1929

OP.No. 1261 of 2001(A)
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PETITIONER:
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K.P. VARGHESE, SON OF POULOSE, KANJIRATHINGAL HOUSE,
WEST FORT DESOM, ARRNATTUKARA VILLAGE, THRISSUR 4,
REPRESENTED BY POWER OF ATTORNEY HOLDER, LEENA VARGHESE,
W/O.VARGHESE, KANJIRATHINGAL HOUSE, WEST FORT DESOM,
ARANATTUKARA VILLAGE, THRISSUR TALUK.

BY ADV. SMT.SUMATHY DANDAPANI

RESPONDENTS:
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1. THE REGIONAL TRANSPORT OFFICER, THRISSUR.

2. THE DEPUTY TRANSPORT COMMISSIONER, CENTRAL ZONE,THRISSUR.

3. THE TRANSPORT COMMISSIONER, THIRUVANANTHAPURAM.

4. THE DISTRICT COLLECTOR, THRISSUR.

5. THE DEPUTY TAHSILDAR (REVENUE RECOVERY, TALUK OFFICE,
CHEMBUKAVU, THRISSUR.

6. THE VILLAGE OFFICER, ARANATTUKARA & PULLAZHI,
KANJANI ROAD, OLARI, THRISSUR.

BY G.P. SRI.MOHAMMED RAFIQ

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 27/06/2007 THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

ORDER ON CMP 2063 OF 2001 IN OP 1261 OF 2001

DISMISSED

27.6.2007 SD/-C.N.RAMACHANDRAN NAIR, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF PERMIT NO. C2/344/97/R DATED 4.12.1997 ISSUED BY THE SECRETARY, RTA, THRISSUR FOR VEHICLE KL-10/A 5169

EXT.P2 TRUE COPY OF DEMAND NSOTICE NO. C2/KRR/415/TAX 99 DATED 5.4.99 ISSUED BY THE FIRST RESPONDENT TO THE PETITIONER.

EXT.P3 TRUE COPY OF PETITION FILED BEFORE THE 2ND RESPONDENT IN THE MONTH OF MAY, 1999, BY THE PETITIONER.

EXT.P4 TRUE COPY OF ORDER NO. C.2/8735/98/R DATED 18.5.99 OF THE SECRETARY,S RTA, THRISSUR, TO THE PETITIONER.

EXT.P5 PHOTOCOPY OF REVENUE RECOVERY NOTICE NO. RR. 5-18124/99 DATED 4.1.2000 ISSUED BY THE 5TH RESPONDENT TO THE PETITIONER.

EXT.P6 TRUE COPY OF REVISION PETITION NO. 4/2000 FILED BY THE PETITIONER BEFORE THE 3RD RESPONDENT IN THE MONTH OF FEBRUARY, 2000

EXT.P7 TRUE COPY OF ORDER NO. B1/2079/TC/2000 DATED 10.4.2000 PRONOUNCED BY THE THIRD RESPONDENT.

EXT.P8 PHOTOCOPY OF RECEIPT NO. 11 FROSM BOOK NO. 1112 DATED 18.3.2000 FOR RECEIPT OF RS. 50,000/- REFERRED TO IN THE O.P.

EXT.P9S TRUE COPY OF PROCEEDINGS NO. 81/2079/TC/2000 DATED 13.10.2000 OF THE THIRD RESPONDENT ISSUED TO THE PETITIONER.

EXT.P10 TRUE COPY OF ORDER NO.S C2/1650/98/R DATED 25.9.99 OF THE SECRETARY, REGIONAL TRANSPORT AUTHORITY, ISSUED FROM THE OFFICE OF FIRST RESPONDENT.

RESPONDENTS' EXHIBITS: NIL

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

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O.P. No. 1261 of 2001

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Dated this the 27th day of June, 2007

JUDGMENT

Heard counsel for the petitioner and Government Pleader. Petitioner is challenging Exts. P9 and P10 proceedings confirming the demand of motor vehicle tax in respect of a stage carriage bearing registration No. KRR 415 for the period commencing from 1.7.1997 to 30.6.1999. In fact, Ext.P9 is a revisional order passed by the Transport Commissioner rejecting the claim of exemption for the period from 1.7.1997 to 31.3.1998. Petitioner filed Form G claiming exemption stating that the vehicle was garaged in the place stated in the G Form. However, on enquiry conducted by the RTO through departmental official, it was noticed that vehicle was not there. Petitioner would have been obviously using the vehicle after declaring that it was garaged somewhere. Therefore motor vehicle tax exemption was declined and tax was demanded from the petitioner. Even in this Court, petitioner has no explanation as to where the vehicle was. Petitioner's case that the vehicle was scrapped also cannot be believed because

vehicle is only 1979 model stage carriage. Even though permit was available for 15 years from the date of manufacture, this Court under interim orders permitted vehicles to be operated for several years even after expiry of 15 years. Moreover, if the vehicle ceased to be fit for use as stage carriage, it could be used for other purposes. As far as motor vehicle tax liability is concerned, the presumption available under Section 3(3) of the Act is that the registered owner or any person having possession and control of the vehicle shall be deemed to use or keep such vehicle for use in the State. Being a registered owner, petitioner is liable to pay tax until the vehicle is scrapped. Even though petitioner has stated that vehicle is scrapped, no evidence is produced as to when it was scrapped, if it was ever done by the petitioner. In the circumstances, I find no ground to interfere with Ext.P9 whereunder the demand of tax from 1.7.1997 to 30.6.1998 is confirmed by the Transport Commissioner in second revision. So far as the next year also is concerned, that is from 1.7.1998 to 30.6.1999, the enquiry conducted by the department shows that the vehicle was not available in the garage mentioned in Form G by the petitioner. Counsel for the

petitioner submitted that petitioner wants to file appeal against Ext.P10 orders declining exemption. I do not find any scope for appeal because position is the same as for previous year as petitioner has no explanation as to where the vehicle was. In the circumstances, the challenge against Ext.P10 is also rejected. However, I leave it open to the petitioner to produce evidence regarding scrapping of the vehicle and sale of the same after 1.7.1999. There will be direction to the RTO to consider tax liability after 1.7.1999 based on evidence to be produced by the petitioner.

O.P. is dismissed.

(C.N.RAMACHANDRAN NAIR)
Judge